

Gerrit M. Pronske
Texas Bar No. 16351640
Melanie P. Goolsby
Texas Bar No. 24059841
Jason P. Kathman
Texas Bar No. 24070036
PRONSKE GOOLSBY & KATHMAN, P.C.
2701 Dallas Parkway, Suite 590
Plano, Texas 75093
(214) 658-6500 - Telephone
(214) 658-6509 – Telecopier
Email: gpronske@pgkpc.com
Email: mgoolsby@pgkpc.com
Email: jkathman@pgkpc.com

PROPOSED COUNSEL FOR THE DEBTOR

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION**

In re: §
§ **CASE NO. 18-43562-mxm11**
SUNDANCE LODGE, LLC §
§ **CHAPTER 11**
Debtor. §
§

**APPLICATION TO EMPLOY PRONSKE GOOLSBY
& KATHMAN, P.C. AS COUNSEL FOR THE DEBTOR**

TO THE HONORABLE UNITED STATES BANKRUPTCY JUDGE:

Sundance Lodge, LLC (the “**Debtor**”), debtor and debtor-in-possession in the above-referenced bankruptcy case, files this Application to Employ Pronske Goolsby & Kathman, P.C. (“**PGK**”) as Counsel for the Debtor (the “**Application**”) pursuant to sections 327, 328, 330, and 1107 of the United States Bankruptcy Code, 11 U.S.C. §§ 101, *et seq.* (the “**Bankruptcy Code**”), and Rule 2014 of the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”), and represent as follows:

NO HEARING WILL BE CONDUCTED HEREON UNLESS A WRITTEN RESPONSE IS FILED WITH THE CLERK OF THE UNITED STATES BANKRUPTCY COURT AT 1100 COMMERCE STREET, ROOM 1254, DALLAS, TX 75242-1496, BEFORE CLOSE OF BUSINESS ON OCTOBER

**19, 2018, WHICH IS AT LEAST 24 DAYS FROM THE DATE OF SERVICE
HEREOF.**

ANY RESPONSE SHALL BE IN WRITING AND FILED WITH THE CLERK, AND A COPY SHALL BE SERVED UPON COUNSEL FOR THE MOVING PARTY PRIOR TO THE DATE AND TIME SET FORTH HEREIN. IF A RESPONSE IS FILED A HEARING MAY BE HELD WITH NOTICE ONLY TO THE OBJECTING PARTY.

IF NO HEARING ON SUCH NOTICE OR MOTION IS TIMELY REQUESTED, THE RELIEF REQUESTED SHALL BE DEEMED TO BE UNOPPOSED, AND THE COURT MAY ENTER AN ORDER GRANTING THE RELIEF SOUGHT OR THE NOTICED ACTION MAY BE TAKEN.

I. JURISDICTION AND VENUE

1. This Court has jurisdiction over this Application pursuant to 28 U.S.C. §§ 157 and 1334(b). This is a core proceeding pursuant to 28 U.S.C. § 157. This Application is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409.
2. The statutory basis for the relief requested herein is sections 327 and 1107 of the Bankruptcy Code.

II. RELIEF REQUESTED AND BASIS THEREFORE

3. On September 7, 2018 (the "Petition Date"), the Debtor filed its voluntary petition for bankruptcy under chapter 11 of the Bankruptcy Code initiating this bankruptcy case (the "Chapter 11 Case"). No trustee, examiner, or official committee of unsecured creditors has been appointed.

4. The Section 341 meeting of creditors is scheduled to take place on November 2, 2018 at 9:30 a.m.

5. In connection with the performance of its duties and obligations as debtor-in-possession, the Debtor wishes to employ PGK, a professional corporation organized for the purposes of practicing law, with its office being at 2701 Dallas Parkway, Suite 590, Plano, Texas,

75093, telephone number (214) 658-6500, facsimile number (214) 658-6509, to serve as his lead bankruptcy counsel in the Chapter 11 Case.

6. The Debtor has selected PGK because its attorneys are experienced in bankruptcy matters of this nature and are well qualified to represent the Debtor. PGK has agreed, subject to the Court's approval, to represent the Debtor in this case.

7. If approved by the Court, PGK will advise and represent the Debtor with respect to all reorganization, litigation, securities, tax, and general corporate law matters, as well as any other matters that may arise in the context of this Chapter 11 Case. More specifically, PGK will render the following services to the Debtor:

- (a) provide legal advice with respect to the Debtor's powers and duties as debtor-in-possession in the continued operation of its business and the management of its property;
- (b) take all necessary action to protect and preserve the Debtor's estate, including the prosecution of actions on behalf of the Debtor, the defense of any actions commenced against the Debtor, negotiations concerning litigation in which the Debtor is involved, and objections to claims filed against the Debtor's estate;
- (c) prepare on behalf of the Debtor necessary motions, answers, orders, reports, and other legal papers in connection with the administration of its estate;
- (d) assist the Debtor in preparing for and filing a disclosure statement in accordance with section 1125 of the Bankruptcy Code;
- (e) assist the Debtor in preparing for and filing a plan of reorganization at the earliest possible date;
- (f) perform any and all other legal services for the Debtor in connection with the Debtor's Chapter 11 Case; and
- (g) perform such legal services as the Debtor may request with respect to any matter, including, but not limited to, corporate finance and governance, contracts, antitrust, labor, and tax.

8. PGK has informed the Debtor that it will not represent any person in connection with any matter adverse to the Debtor or their estate. Should PGK discover during the pendency of this Chapter 11 Case that it represents any additional entities or persons that are affiliates of any party in interest in this Chapter 11 Case, it will promptly and fully disclose to the Court the nature of its representation and relationship thereto.

9. PGK represents Debtor's affiliates and co-debtors CM Resort, LLC,¹ CM Resort, LLC,² CM Resort Management, LLC,³ Destination Development Community III, Ltd.⁴, Destination Development Partners, Inc.,⁵ Sundance Residence Club, LLC,⁶ Sundance Partners, LLC,⁷ Sundance Residences, LLC,⁸ and Icarus Investments, Inc.⁹ Based on an investigation of PGK's client lists as of the date of filing this Application, and other than what has been disclosed herein, PGK has informed the Debtor that, except as is fully set forth in this Application and/or the Declaration of Gerrit M. Pronske attached hereto as **Exhibit A**, it has no known connections with the Debtor, its creditors, or other parties in interest in this Chapter 11 Case, and does not hold or represent any other known or reasonably ascertainable interest adverse to the Debtor's estates with respect to the matters upon which it is to be engaged. The Declaration of Gerrit M. Pronske also sets forth facts concerning PGK's relationship with the Debtor, its affiliates, creditors, or parties-in-interest pursuant to Bankruptcy Rule 2014.

¹ Case No. 18-43168-rfn11

² Case No. 18-43168-rfn11

³ Case No. 18-43290-mxm11

⁴ Case No. 18-43294-mxm11

⁵ Case No. 18-43292-rfn11

⁶ Case No. 18-43565-mxm11

⁷ Case No. 18-43566-mxm11

⁸ Case No. 18-43566-mxm11

⁹ Case No. 18-43567-rfn11

10. PGK will charge for time at its normal billing rates for attorneys and legal assistants and will request reimbursement for its out-of-pocket expenses. All fees and expenses will be subject to Bankruptcy Court approval.

11. On September 11, 2018, PGK received a \$60,000.00 retainer on behalf of the Debtor and its affiliates from Jennifer Ruff, paid from her separate property. Of the total retainer, \$6,666.67 has been allocated to the Debtor. Upon receipt of the retainer, PGK drew down \$3,693.95 for pre-petition work performed in preparation of the Debtor's bankruptcy filing, representing the Debtor in connection with the removed adversary proceeding, and reimbursement of the filing fee. PGK holds the remaining \$2,972.72 of retainer allocated to the Debtor in its IOLTA trust account.

III. MATTERS RELEVANT TO THE RETENTION OF PGK

12. PGK has attempted to determine its past and present connections with the Debtor, its creditors, partners, any parties-in-interest appearing in these cases, its attorneys, accountants, the United States Trustee, or any person employed in the Office of the United States Trustee. As explained above, based upon that investigation and to the best of PGK's present knowledge, PGK does not have any connections to the Debtor, the Debtor's creditors, any other party-in-interest, its attorneys and accountants, the United States Trustee, or any employee of the Office of the United States Trustee. In the event PGK becomes aware of any additional connections, it will supplement the disclosure at the earliest opportunity.

IV. NOTICE

13. Notice of this Application and the relief requested hereby has been provided to the Office of the United States Trustee, the Debtor's twenty (20) largest unsecured creditors, the Debtor's secured lenders, and all parties filing notices of appearance in these bankruptcy cases.

No official creditor's committee has been formed in these cases. Accordingly, the Debtor believes that such notice of this Application is sufficient.

V. REQUEST FOR *NUNC PRO TUNC* EMPLOYMENT

14. At the request of the Debtor, PGK has agreed to begin to render services to or on behalf of the Debtor as of the Petition Date. Accordingly, the Debtor request this Court to enter an order approving the employment of PGK as counsel for the Debtor as of the Petition Date, on the terms set forth herein.

15. This Application is being filed at the Debtor's earliest opportunity. An order authorizing retroactive employment is necessary since PGK has been provided legal services to the Debtor since the Petition Date, including representing the Debtor at a hearing on the adversary proceeding, and engaging with movants seeking relief from the bankruptcy automatic stay. Approval of PGK's employment *nunc pro tunc* to the Petition Date will not prejudice any parties-in-interest since no other professional has provided similar services on behalf of the Debtor and the estate has benefited from the work PGK has performed since the Petition Date.

WHEREFORE, PREMISES CONSIDERED, the Debtor respectfully requests an Order of this Court approving the Debtor's employment of Pronske Goolsby & Kathman, P.C. as its counsel *nunc pro tunc* to the Petition Date, on the terms set forth herein, and for such other and further relief, legal or equitable, special or general, to which the Debtor may show themselves justly entitled.

Dated: September 25, 2018.

Respectfully submitted,

/s/ Melanie P. Goolsby
Gerrit M. Pronske
Texas Bar No. 16351640
Melanie P. Goolsby
Texas Bar No. 24059841
Jason P. Kathman
Texas Bar No. 24070036
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Email: mgoolsby@pgkpc.com
Email: jkathman@pgkpc.com

**PROPOSED COUNSEL FOR
THE DEBTOR**

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that, on September 25, 2018, I caused to be served the foregoing pleading upon the parties on the Creditor Matrix attached hereto via electronic mail and/or United States mail, first class delivery, and also via the Court's electronic transmission facilities upon all parties accepting such service.

/s/ Melanie P. Goolsby
Melanie P. Goolsby